

245E.02 INVESTIGATIONS OF FINANCIAL MISCONDUCT.

Subdivision 1. **Investigating provider or recipient financial misconduct.** The department shall investigate alleged or suspected financial misconduct by providers and errors related to payments issued by the child care assistance program under this chapter. Recipients, employees, and staff may be investigated when the evidence shows that their conduct is related to the financial misconduct of a provider, license holder, or controlling individual. When the alleged or suspected financial misconduct relates to acting as a recruiter offering conditional employment on behalf of a provider that has received funds from the child care assistance program, the department may investigate the provider, center owner, director, manager, license holder, or other controlling individual or agent, who is alleged to have acted as a recruiter offering conditional employment.

Subd. 1a. **Provider definitions.** For the purposes of this section, "provider" includes:

- (1) individuals or entities meeting the definition of provider in section 245E.01, subdivision 12; and
- (2) owners and controlling individuals of entities identified in clause (1).

Subd. 2. **Scope of investigations.** (a) The department may contact any person, agency, organization, or other entity that is necessary to an investigation.

(b) The department may examine or interview any individual, document, or piece of evidence that may lead to information that is relevant to child care assistance program benefits, payments, and child care provider authorizations. This includes, but is not limited to:

- (1) child care assistance program payments;
- (2) services provided by the program or related to child care assistance program recipients;
- (3) services provided to a provider;
- (4) provider financial records of any type;
- (5) daily attendance records of the children receiving services from the provider;
- (6) billings; and

(7) verification of the credentials of a license holder, controlling individual, employee, staff person, contractor, subcontractor, and entities under contract with the provider to provide services or maintain service and the provider's financial records related to those services.

Subd. 3. **Determination of investigation.** After completing its investigation, the department shall issue one of the following determinations:

- (1) no violation of child care assistance requirements occurred;
 - (2) there is insufficient evidence to show that a violation of child care assistance requirements occurred;
 - (3) a preponderance of evidence shows a violation of child care assistance program law, rule, or policy;
- or
- (4) there exists a credible allegation of fraud.

Subd. 3a. **Prohibited hiring practice.** It is prohibited to hire a child care center employee when, as a condition of employment, the employee is required to have one or more children who are eligible for or receive child care assistance, if:

(1) the individual hiring the employee is, or is acting at the direction of or in cooperation with, a child care center provider, center owner, director, manager, license holder, or other controlling individual; and

(2) the individual hiring the employee knows or has reason to know the purpose in hiring the employee is to obtain child care assistance program funds.

Subd. 4. **Actions or administrative sanctions.** (a) After completing the determination under subdivision 3, the department may take one or more of the actions or sanctions specified in this subdivision.

(b) The department may take the following actions:

(1) refer the investigation to law enforcement or a county attorney for possible criminal prosecution;

(2) refer relevant information to the department's licensing division, the child care assistance program, the Department of Education, the federal Child and Adult Care Food Program, or appropriate child or adult protection agency;

(3) enter into a settlement agreement with a provider, license holder, controlling individual, or recipient; or

(4) refer the matter for review by a prosecutorial agency with appropriate jurisdiction for possible civil action under the Minnesota False Claims Act, chapter 15C.

(c) In addition to section 256.98, the department may impose sanctions by:

(1) pursuing administrative disqualification through hearings or waivers;

(2) establishing and seeking monetary recovery or recoupment;

(3) issuing an order of corrective action that states the practices that are violations of child care assistance program policies, laws, or regulations, and that they must be corrected; or

(4) suspending, denying, or terminating payments to a provider.

(d) Upon a finding by the commissioner that any child care provider, center owner, director, manager, license holder, or other controlling individual of a child care center has employed, used, or acted as a recruiter offering conditional employment for a child care center that has received child care assistance program funding, the commissioner shall:

(1) immediately suspend all program payments to all child care centers in which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual. The commissioner shall suspend program payments under this clause even if services have already been provided; and

(2) immediately and permanently revoke the licenses of all child care centers of which the person employing, using, or acting as a recruiter offering conditional employment is an owner, director, manager, license holder, or other controlling individual.

History: 2013 c 108 art 5 s 5; 2015 c 78 art 4 s 44-46; 1Sp2019 c 9 art 2 s 82